

BEFORE THE
ILLINOIS COMMERCE COMMISSION

NEUSTAR, INC.) DOCKET NO.
In Its Role as North American) 01-0656
Numbering Plan Administrator)
)
Petition for Approval of Numbering)
Plan Area Relief Planning for the)
217 NPA.)

Springfield, Illinois
May 26, 2004

Met, pursuant to notice, at 1:30 P.M.

BEFORE:

MR. JOHN ALBERS, Administrative Law Judge

APPEARANCES:

MR. JAMES HUTTENHOWER
225 West Randolph Street, HQ 25D
Chicago, Illinois 60606

(Appearing on behalf of Illinois Bell
Telephone Company via teleconference)

MR. JOSEPH D. MURPHY
306 West Church Street
Champaign, Illinois 61820

(Appearing on behalf of Cingular Wireless
via teleconference)

SULLIVAN REPORTING COMPANY, by
Carla J. Boehl, Reporter
Ln. #084-002710

APPEARANCES:

(Cont'd)

MS. JULIE SODERNA
208 South LaSalle Street, Suite 1760
Chicago, Illinois 60604

(Appearing on behalf of Citizens Utility
Board via teleconference)

MS. KIMBERLY MILLER
2000 Elm Street, Northwest, Suite 600
Washington, D.C. 20006

(Appearing on behalf of NeuStar, Inc., via
teleconference)

MR. THOMAS STANTON
160 North LaSalle, Suite C-800
Chicago, Illinois 60601

(Appearing on behalf of Staff of the
Illinois Commerce Commission via
teleconference)

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WITNESSESDIRECT CROSS REDIRECT RECROSS

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PROCEEDINGS

JUDGE ALBERS: By the authority vested in me by the Illinois Commerce Commission, I now call Docket Number 01-0656. This docket was initiated by NeuStar in its role as the North American Numbering Plan Administrator and concerns numbering plan relief planning for the 217 NPA.

May I have the appearances for the record, please?

MR. HUTTENHOWER: James Huttenhower, H-U-T-T-E-N-H-O-W-E-R, appearing on behalf of Illinois Bell Telephone, 225 West Randolph Street, Suite 25D, Chicago, Illinois 60606, and my telephone number is (312) 727-1444.

MR. MURPHY: On behalf of Cingular Wireless, Joseph D. Murphy, 306 West Church Street, Champaign, Illinois 61820, telephone (217) 352-0030.

MS. MILLER: Kimberly Miller representing NeuStar, 2000 Elm Street, Northwest, Suite 600, Washington, D.C., 20006, (202) 553-2912.

MR. STANTON: Tom Stanton on behalf of the Illinois Commerce Commission, 160 North LaSalle,

1 Suite C-800, Chicago.

2 JUDGE ALBERS: Off the record.

3 (Whereupon there was
4 then had an
5 off-the-record
6 discussion.)

7 JUDGE ALBERS: Back on the record.

8 MR. STANTON: On behalf of the Staff of the
9 Illinois Commerce Commission, Thomas R. Stanton, 160
10 North LaSalle Street, Suite C-800, Chicago, Illinois
11 60601.

12 MS. SODERNA: Julie Soderna, S-O-D-E-R-N-A, on
13 behalf of the Citizens Utility Board, 208 South
14 LaSalle Street, Suite 1760, Chicago, Illinois
15 60604.

16 JUDGE ALBERS: And are there any others wishing
17 to enter an appearance? Let the record show no
18 response.

19 As far as preliminary matters, I have got a
20 few petitions to intervene that I received since we
21 last met. I have the petition to intervene of
22 Verizon Wireless, Citizens Utility Board, Quincy

1 Area Chamber of Commerce, and the Illinois
2 Telecommunications Association, Inc. Is there any
3 objection to any of those petitions to intervene?
4 Hearing none, they are all granted.

5 Did anybody else have any preliminary
6 matter? Okay. Turning to why I called this
7 hearing, I will just note first that we have had the
8 public forums that the Commission agreed was prudent
9 to call, although there was not much turnout at many
10 of those. And if anyone is interested in the
11 transcripts, however, they can be found on e-Docket.

12 I will also note that I understand that the
13 latest projected exhaust date in the 217 NPA is in
14 the fourth quarter of 2008. Ms. Miller, that's
15 correct, isn't it?

16 MS. MILLER: That's correct. This is Kimberly
17 Miller.

18 JUDGE ALBERS: Thank you. Despite this new
19 exhaust projection date, nothing technically
20 prohibits the Commission from nevertheless choosing
21 a relief alternative in the relatively near future
22 for later implementation. I don't see any reason

1 why we can't go ahead and try to do that at this
2 time. This docket has set open for quite awhile
3 since it was initially started by NeuStar and now
4 that we have had what input there is from the
5 public, I think we can go ahead and try to pick an
6 alternative.

7 So with that, if anyone has any comments
8 regarding that statement, feel free to make them
9 now. Otherwise we can go off the record and talk
10 about scheduling.

11 MS. SODERNA: This is Julie Soderna from CUB.
12 I guess my instinct is that, you know, 2008 is a
13 long way away. That's four and a half years away,
14 and circumstances could very well change, external
15 circumstances. Also those -- the attitudes of the
16 public could also drastically change in four and a
17 half years. I mean, a lot of things can happen in
18 four and a half years, and I am not so sure that it
19 is the best course to go ahead and set the relief
20 alternative this far in advance. I have some
21 concerns about that.

22 JUDGE ALBERS: Well, one alternative to not

1 doing anything now in this docket is to dismiss this
2 docket. However, it is my understanding that
3 NeuStar fulfilled its obligation back in 2001 when
4 it told us that the area code was nearing exhaust,
5 and I don't believe NeuStar has a continuing
6 obligation to come back to us a second time when it
7 gets closer to 2008 or whenever we need to get
8 serious again about the projected exhaust date.

9 Ms. Miller, can you confirm that
10 understanding?

11 MS. MILLER: Well, we have, you know, no
12 affirmative obligation to come back to you as long
13 as this original petition is pending. But if it is
14 formally dismissed, what we would end up doing is
15 coming back to you I think it's 36 months out from
16 exhaust and file a new petition. So we would have
17 to go through the process again, get the industry
18 together, get a new consensus, create a new petition
19 and file it at that time. So our obligation is, you
20 know, to initiate that process 36 months in advance
21 to exhaust. So we would wait about a year and a
22 half and then refile.

1 MR. MURPHY: This is Joe Murphy. I have what I
2 think is a question. If this docket is dismissed,
3 what does that do to the current jeopardy, current
4 jeopardy, situation in 217 and more specifically the
5 jeopardy code allocation.

6 JUDGE ALBERS: I have that question as well.

7 MS. SODERNA: Well, if your concern is that it
8 will approach exhaust quicker than the current
9 estimate without the parties being aware, I don't
10 think that should be a concern at all. I think the
11 Commission Staff has shown that they are paying very
12 close attention to the period NANPA data that comes
13 out, the biennial NANPA data; and the exhaust dates,
14 they are very much made public and paid close
15 attention to.

16 MR. MUPRHY: I guess the reason -- this is Joe
17 Murphy again -- that I ask my question is that if
18 the jeopardy condition is abated and codes can be
19 issued other than under the jeopardy circumstance,
20 there are a lot of different situations that could
21 cause a very fast acceleration of the exhaust, I
22 think.

1 JUDGE ALBERS: Well, let me hear from
2 Ms. Miller on that because I believe that was
3 Ms. Soderna that just made that last comment before
4 you, Mr. Murphy.

5 MS. SODERNA: Right.

6 JUDGE ALBERS: Ms. Miller, if this docket is
7 dismissed without any type of relief planning
8 adopted, would the jeopardy status be lifted?

9 MS. MILLER: I am not a hundred percent sure,
10 but my understanding is that just because it is
11 dismissed, it doesn't mean jeopardy would be
12 removed. Actual it would continue unless industry
13 seeks to change that.

14 JUDGE ALBERS: What would it take for the
15 industry to change that?

16 MS. MILLER: I believe it would take two
17 different parties to request in writing from us to
18 get the industry together to agree to rescind
19 jeopardy.

20 JUDGE ALBERS: And it would still take a
21 consensus among the industry group to lift the
22 jeopardy status?

1 MS. MILLER: That's my understanding.

2 JUDGE ALBERS: Okay. Does anybody else have
3 any comments or concerns about adopting or
4 attempting to move forward and picking a relief plan
5 at this point?

6 MR. GREEN: I can't speak, right?

7 JUDGE ALBERS: No. I take the silence as not
8 having any thoughts on that.

9 MS. SODERNA: May I provide one suggestion?
10 This is Julie Soderna again.

11 JUDGE ALBERS: Okay. Go ahead.

12 MS. SODERNA: We could do what we have done in
13 other dockets and sort of wait until the next set of
14 NANPA data comes out that would give an indication
15 of whether this current exhaust projection is, you
16 know, likely to continue to be correct. I mean, as
17 we have seen repeatedly, I mean, I don't think any
18 of these exhaust projections have ever been exactly
19 correct, but they seem to be approaching more
20 accurate figures as the time has gone by. And if we
21 wait for one more set to come out, maybe we can have
22 a better predictor of when the real exhaust is going

1 to be and have a better -- be more informed about
2 going forward.

3 JUDGE ALBERS: Well, we just had one on April
4 30, I believe is when it came out. When should we
5 expect the next one?

6 MS. SODERNA: The next data?

7 MS. MILLER: The end of October, we believe.

8 JUDGE ALBERS: Okay. Well, here is my concern.
9 I still have this open docket before me for that
10 long. And as I said, nothing requires us to
11 implement right way whatever relief we pick. In the
12 alternative this could be dismissed and I am not
13 necessarily opposed to doing that either. I don't
14 know if that would be prudent, though, not having
15 heard from any others on that idea.

16 Is there any objection to this current
17 docket being dismissed?

18 MR. STANTON: Judge, this is Tom Stanton. To
19 get to the heart of the matter, there is benefits of
20 keeping this docket open in terms of forestalling
21 number exhaust or possible code utilization. I
22 think Mr. Murphy has mentioned those. I would also

1 have to -- you know, on the other side there may be
2 some administrative burdens in terms of keeping this
3 open. You know, there is an outstanding docket at
4 the Commission that does preclude some people from
5 talking to other people, staff members from talking
6 to other people. But I think in this case, you
7 know, given that the benefits do outweigh the
8 burdens and I think one possibility is if we go and
9 pick whether a split or an overlay or the particular
10 relief, I think we are going to be, as Ms. Soderna
11 mentioned, that may change and we are going to do it
12 possibly prematurely in getting public comment on it
13 and kind of getting people interested in the issue
14 when it may happen four years down the road.

15 So I am not sure that that's the route we
16 want to go down at this point when we know that the
17 exhaust right now is in 2008. On behalf of Staff, I
18 think maybe the best alternative is to maybe
19 continue this docket for maybe four months, five
20 months, six months, until October, until we can look
21 at those numbers. We can reconvene and we will see
22 where we stand then.

1 JUDGE ALBERS: Well, what are the benefits in
2 Staff's opinion to keeping this open?

3 MR. STANTON: The benefits would be that the
4 jeopardy would still be in effect and the code use
5 would continue to be rationed.

6 JUDGE ALBERS: Well, I want to make sure I
7 understand, though, it sounds like Ms. Miller said
8 that the jeopardy may also continue even if this
9 docket is dismissed.

10 MR. LIGHT: Judge Albers, this is George Light.
11 I think the main concern is that if the docket is
12 dismissed, the jeopardy doesn't necessarily go away.

13 JUDGE ALBERS: George, as the ALJ assistant I
14 don't know if you should be on the record.

15 MR. LIGHT: I am sorry. I thought I could make
16 a comment here.

17 JUDGE ALBERS: I appreciate your wanting to
18 help; I just don't know procedurally.

19 MR. MURPHY: Judge, Joe Murphy, I guess my
20 concern -- and I defer to Ms. Miller on these
21 topics; she is certainly in a better position to
22 know how this works than I am. I guess I would be

1 concerned about dismissing this unless I was sure
2 that Ms. Miller was correct about the jeopardy
3 situation. And I guess my suggestion is that you
4 continue the docket for six months during which time
5 you will get another NRUF and during which time
6 anybody who wants to confirm the procedures for
7 jeopardy can.

8 MS. MILLER: Yes, at this time I can't confirm
9 what's happening or what will happen with the
10 jeopardy. But, you know, my understanding is that a
11 Commission proceeding and NANPA's declaration of
12 jeopardy are independent of one another. So things
13 could change with jeopardy regardless of what the
14 Commission does, depending on the industry.

15 JUDGE ALBERS: Okay. So even if this docket
16 continues open, you think it is possible that the
17 industry could come to NANPA and ask that the
18 jeopardy be lifted?

19 MS. MILLER: It could.

20 JUDGE ALBERS: Okay. Now, I am not trying to
21 fault you here any but I think you said earlier you
22 weren't a hundred percent sure that was the way it

1 would work?

2 MS. MILLER: No, I am not a hundred percent
3 sure. I am not an expert on the jeopardy
4 procedures.

5 JUDGE ALBERS: Could you please find out, just
6 verify whether or not your understanding is correct,
7 and submit something briefly describing how that
8 would work?

9 MS. MILLER: I can do that. If I can find out
10 from our director within the next ten seconds, I can
11 maybe clarify it on the phone. Let me try that
12 while you continue to discuss it.

13 JUDGE ALBERS: Why don't we just recess for a
14 few minutes so we don't discuss anything that you
15 might be want to be a part of.

16 (Whereupon there was
17 then had an
18 off-the-record
19 discussion.)

20 JUDGE ALBERS: Back on the record. I believe
21 Ms. Miller has an answer for our question.

22 MS. MILLER: Thank you, Judge. I confirmed

1 with the director of NANPA that jeopardy rationing
2 in this area code is independent of the Commission's
3 proceeding. And, therefore, it is a decision right
4 now based upon NANPA and the industry as to whether
5 rationing continues or is rescinded, and it is not
6 dependent upon whether the Commission dismisses this
7 NPA petition.

8 JUDGE ALBERS: Would the lack of an open docket
9 here at the Commission somehow make it easier for
10 jeopardy to be lifted?

11 MS. MILLER: No.

12 JUDGE ALBERS: Even as a practical matter?

13 MS. MILLER: No.

14 JUDGE ALBERS: Okay.

15 MR. MURPHY: Can I ask the question a different
16 way? Is the existence of a docket -- does the
17 existence of a docket place any procedural
18 complications on lifting jeopardy?

19 MS. MILLER: No.

20 MR. MURPHY: So the industry could get together
21 tomorrow if two companies asked for it and agree to
22 lift jeopardy?

1 MS. MILLER: Yes, if the, you know, if there is
2 a consensus process. So we would have to have two
3 independent companies petition us to get the
4 industry together and then the industry would have
5 to get together and then there would have to be a
6 consensus.

7 JUDGE ALBERS: So let me ask you this. I don't
8 mean to be picking on these first two companies;
9 they are the first ones that come to mind. SBC and
10 Cingular Wireless couldn't get together and ask for
11 an industry meeting?

12 MS. MILLER: If they are independent companies,
13 they can.

14 JUDGE ALBERS: But SBC and Cingular Wireless
15 are affiliates; they couldn't come together?

16 MS. MILLER: I don't know if they are
17 considered under our policies two independent
18 companies or not. I would imagine they are because
19 one is a wireless and one is the land line.

20 JUDGE ALBERS: So they would be considered
21 independent for your purposes?

22 MS. MILLER: I can't confirm that without going

1 to our policies, but yes, I think.

2 JUDGE ALBERS: Okay. Well, that's fine. I am
3 just trying to understand the full impact of
4 anything we might do here. And again the consensus,
5 how many would it take to qualify as a consensus?

6 MS. MILLER: It depends on how many show up at
7 the meeting. So it is more than a majority but less
8 than unanimous.

9 JUDGE ALBERS: Okay. It could be 51 percent?

10 MS. MILLER: It would normally be more than 51
11 percent.

12 JUDGE ALBERS: Okay. Are you talking about
13 maybe 75 percent? I am not trying to make this
14 difficult for you. I am just trying to again figure
15 out the potential impacts here.

16 MS. MILLER: Well, the way consensus is defined
17 is more than a simple majority but less than
18 unanimous. That's as clear as I can be.

19 JUDGE ALBERS: Okay. That's fine. Does any of
20 Ms. Miller's comments change anyone's opinion as far
21 as keeping this docket open? Ms. Soderna, I guess I
22 would be interested in your opinion.

1 MS. SODERNA: Well, I don't know how to say
2 this. I think that -- I still think that it is a
3 good idea to keep the docket open and to wait until
4 the next set of NRUF data come out and to make a
5 decision at that point.

6 JUDGE ALBERS: And, again, not trying to put
7 anybody on the spot here, but could you tell me at
8 this point what type of NRUF data you would like to
9 see before you think it would be prudent to dismiss
10 or go ahead and try to pick a --

11 MS. SODERNA: I think the reason I say that is
12 because the NRUF data prior to the most recent,
13 wasn't the exhaust first quarter 2005?

14 JUDGE ALBERS: I believe that's correct.

15 MS. SODERNA: In one six-month period it went
16 from first quarter 2005 to fourth quarter 2008.
17 That's a very large jump in one set of NRUF data.
18 And I think all I am asking is that we wait and see,
19 get one more set of NRUF data so we can be certain
20 that that trend is correct and then we can make a
21 more informed decision at that time.

22 MS. MILLER: Judge, this is Kimberly Miller

1 again. Let me interject and correct myself which
2 would clear up a lot of things. There are a lot of
3 consensus processes the industry can change in
4 relation to NANPA action including NPA relief
5 decisions. But jeopardy is the one exception to
6 that. So, therefore, what I was talking about,
7 about two independent companies being able to
8 petition NANPA to rescind jeopardy, that's not
9 possible. So whether to rescind jeopardy or not is
10 right now wholly within NANPA's perview.

11 JUDGE ALBERS: Okay. So now you are saying
12 that if we dismiss this docket, jeopardy would still
13 continue and only NANPA could decide to lift
14 jeopardy.

15 MS. MILLER: Right.

16 MR. MURPHY: This is Joe Murphy again. Could
17 NANPA decide to lift jeopardy even though the docket
18 remains open?

19 MS. MILLER: Yes, and that I am sure of.

20 JUDGE ALBERS: Well, does that clarification
21 change anyone's opinion?

22 MS. SODERNA: That confirms my opinion, Judge.

1 This is Julie Soderna.

2 MR. MURPHY: Let me ask one more question.

3 This is Joe Murphy again. Does the existence of an
4 open Commission docket normally affect whether NANPA
5 would be willing to remove the jeopardy circumstance
6 or not?

7 MS. MILLER: I know what you are getting at,
8 Joe. Officially, no. In practice NANPA takes into
9 a lot of considerations and the Commission's
10 feelings in a certain matter would definitely be one
11 of those things we would consider.

12 JUDGE ALBERS: Okay.

13 MS. MILLER: But an open docket is not
14 necessarily the only way to express an opinion.

15 JUDGE ALBERS: Well, does anybody have anything
16 else they want to add then before I have a few final
17 thoughts?

18 MS. SODERNA: No, Your Honor.

19 JUDGE ALBERS: I guess based on everything I
20 heard then, I want to think a little bit more about
21 whether or not it would be better to keep this open
22 or else to issue a proposed order recommending

1 dismissal.

2 MS. MILLER: I have one more question. What
3 happens to the public comments in this proceeding if
4 it is dismissed?

5 JUDGE ALBERS: Well, they would remain, you
6 know, part of the file in this case. They are not
7 technically part of the record in the sense that the
8 Commission is obligated to consider them. So in a
9 way, even if this docket remains open and a decision
10 is ultimately made in this docket, the amount of
11 weight to give to the public comments is
12 questionable. That's one way to put it.

13 Does that answer your question?

14 MS. MILLER: Yes, I thought that was an
15 important consideration.

16 JUDGE ALBERS: Any other comments or questions?
17 Well, I think that concludes my thoughts then. I
18 just want to think about this some more. The next
19 exhaust forecast would be in October generally?

20 MS. MILLER: Yes.

21 MS. SODERNA: Judge, I apologize. This is
22 Julie Soderna. I have to leave. I have to go to my

1 other hearing.

2 JUDGE ALBERS: I am sorry, yes. I was going to
3 continue this matter generally right now, anyway.

4 MS. SODERNA: Okay. I didn't mean to rush you.

5 JUDGE ALBERS: No, I was just taking some
6 notes. All right. So this matter is continued
7 generally.

8 (Whereupon the hearing
9 in this matter was
10 continued generally.)

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